

## STATE PLAN UNDER TITLE XIX OF SOCIAL SECURITY ACT

## STATE: CALIFORNIA

REIMBURSEMENT FOR ALL CATEGORIES OF NURSING FACILITIES AND  
INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

The purpose of this State Plan is to (1) establish the principles of the State of California's reimbursement system for providers of long-term care services to assure compliance with the requirements of Title XIX of the Federal Social Security Act and the Code of Federal Regulations, and (2) describe the procedures to be followed by the single state agency, the Department of Health Services (herein called the Department), in determining long-term care reimbursement rates.

## I. GENERAL PROVISIONS

- A. The State shall set prospective rates for services by various classes of facilities, including special programs.
- B. Reimbursement shall be for routine per diem services, exclusive of ancillary services, except for state-owned facilities where an ancillary per diem rate shall be developed by another state agency, and for county facilities operating under a special agreement with the Department. These ancillary rates are reviewed and audited by the Department and, together with the routine service per diem, form an all-inclusive rate. The routine service per diem shall be based on Medicare principles of reimbursement. Ancillary services for all other facilities are reimbursed separately on a fee for service basis as defined in the California Code of Regulations (CCR), except for facilities providing subacute, pediatric subacute and transitional inpatient care services.
- C. The routine service per diem includes all equipment, supplies and services necessary to provide appropriate nursing care to long-term care patients or intermediate care for the developmentally disabled, except those items listed as separately payable or personal items such as cosmetics, tobacco products and accessories, dry cleaning, beauty shop services (other than shaves or shampoos performed by the facility as part of patient care and periodic hair cuts), and television rental.

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Note: Do not pay for  
rep/acc items  
per CCR

D. Not included in the payment rate and to be billed separately by the provider thereof, subject to the utilization controls and limitations of Medi-Cal regulations covering such services and supplies, are:

1. Allied health services ordered by the attending physician, excluding respiratory therapy.
2. Alternating pressure mattresses/pads with motor.
3. Atmospheric oxygen concentrators and enrichers and accessories.
4. Blood, plasma and substitutes.
5. Dental services.
6. Durable medical equipment as specified in Section 51321(g).
7. Insulin.
8. Intermittent positive pressure breathing equipment.
9. Intravenous trays, tubing and blood infusion sets.
10. Laboratory services.
11. Legend drugs.
12. Liquid oxygen system.
13. MacLaren or Pogon Buggy.
14. Medical supplies as specified in Section 59998.
15. Nasal cannula.
16. Osteogenesis stimulator device.
17. Oxygen (except emergency).
18. Parts and labor for repairs of durable medical equipment if originally separately payable or owned by beneficiary.
19. Physician services.
20. Portable aspirator.
21. Portable gas oxygen system and accessories.
22. Precontoured structures (VASCO-PASS, cut out foam).
23. Prescribed prosthetic and orthotic devices for exclusive use of patient.
24. Reagent testing sets.
25. Therapeutic air/fluid support systems/beds.
26. Traction equipment and accessories.
27. Variable height beds.
28. X-rays.

For subacute, pediatric subacute, and transitional levels of care, items can be separately billed as specified in Title 22 CCR, Sections 51511.5(d), 51511.6(f) and

51511.3(f) respectively (see Appendix 4).

- E. The specific methodology, with the most recent update factors and constants used to project costs, is contained in an annual rate study conducted by the Department prior to August 1st each year and required by the CCR as an evidentiary base for the filing of new and/or revised regulations. This specific document is designated as Supplement 1, and is appended to this Plan. The rates will become effective as provided for by the State's Budget Act. Add-ons to rates are described in Appendix 1.
- F. If a freestanding facility's change in bedsize has an impact on the reimbursement rate, the lesser of the existing rate or the new rate shall prevail until the next general rate change. This is to deter a facility from changing bedsize groupings for the purpose of maximizing reimbursement.
- G. Notwithstanding any other provisions of this State Plan, the reimbursement rate shall be limited to the usual charges made to the general public, not to exceed the maximum reimbursement rates set forth by this Plan.
- H. Within the provisions of this Plan, the following abbreviations shall apply: NF-nursing facility; ICF/DD-intermediate care facility for the developmentally disabled; ICF/DD-H-intermediate care facility for the developmentally disabled habilitative; ICF/DD-N-intermediate care facility for the developmentally disabled nursing; STP-special treatment program; and DP-distinct part.
- I. All long term care providers shall be required to be certified as qualified to participate in the Medi-Cal program and must also meet the requirements of Section 1919 of the Social Security Act. In order to assure that reimbursement takes into account the cost of compliance with statutory requirements, NFs shall be reimbursed based on the following criteria: (Refer to Table I for a specific list)
  - 1. Resident acuity:

NFs shall be reimbursed based on the provision of the following services: level A; level B; subacute -- ventilator and non-ventilator dependent; pediatric subacute -- ventilator and non-ventilator dependent; and transitional inpatient care -- rehabilitative and medical. Level A services are

provided to a NF resident who requires medically necessary services of relatively low intensity. Level B, subacute, pediatric subacute, and transitional inpatient care services are provided to a NF resident who requires medically necessary services of varying degrees of higher intensity. The criteria for the acuity of NF services and staffing standards are contained in state regulations and policy manuals.

2. Organization type:

- (a) Freestanding facilities.
- (b) DP/NFs - A distinct part nursing facility is defined as any nursing facility (level A or B) which is licensed together with an acute care hospital.
- (c) Swing-beds in rural acute care facilities.
- (d) Subacute units of freestanding or distinct part NFs - A subacute care unit is a specifically designated and identifiable area of a NF-B (either freestanding or distinct part).
- (e) Pediatric subacute units of freestanding or distinct part NFs - A pediatric subacute care unit is a specifically designated and identifiable area of a NF-B (either freestanding or distinct part).
- (f) Transitional inpatient care units of freestanding or distinct part NFs -- A transitional inpatient care unit is a specifically designated and identifiable area of a NF-B (either freestanding or distinct part).

3. Bedsize:

As listed below, in determining the appropriate bedsize categories for reimbursement purposes, a facility's total number of beds shall be used, irrespective of patient acuity level or licensure. A single facility licensed as a distinct part to provide two or more patient acuity levels, or a single facility that has separate licenses for different patient acuity levels, shall have the bedsize for each patient acuity level determined by total beds within the actual physical plant. The bedsize used to establish rates shall be based upon the data contained in the cost report(s) included in the rate study.

- (a) NF level B...1-59, and 60+
- (b) DP/NF level B...no bedsize category

- (c) NF level B/subacute...no bedsize category
- (d) DP/NF level B/subacute...no bedsize category
- (e) NF level B/pediatric subacute...no bedsize category
- (f) DP/NF level B/pediatric subacute...no bedsize category
- (g) NF level A...1-99 and 100+
- (h) DP/NF level A ...1-99 and 100+
- (i) ICF/DD...1-59, 60+ and 60+ with a distinct part
- (j) ICF/DD-H...4-6 and 7-15
- (k) ICF/DD-N...4-6 and 7-15
- (l) Swing-beds...no bedsize category
- (m) Transitional inpatient care...no bedsize category

4. Geographical location:

- (a) Freestanding NF levels A and B and DP/NF level A:
  - (1) Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara counties.
  - (2) Los Angeles county.
  - (3) All other counties.
- (b) DP/NF level B, freestanding NF level B/subacute and pediatric subacute, DP/NF level B/subacute and pediatric subacute, transitional inpatient care, ICF/DDs, ICF/DD-Hs, and ICF/DD-Ns,...statewide.
- (c) Rural swing-beds...statewide.

J. Special Treatment Program (STP)

For eligible Medi-Cal patients 65 years or older who receive services in an Institution for Mental Disease the STP patch rate will apply. This is a flat add-on rate determined to be the additional cost for facilities to perform these services. STP does not constitute a separate level of care.

II. COST REPORTING

- A. All long term-care facilities participating in the Medi-Cal Program shall maintain, according to generally accepted accounting principles, the uniform accounting systems adopted by the State and shall submit cost reports in the manner approved by the State.

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1. Cost reports are due to the State no later than 150 days after the close of each facility's fiscal year, in accordance with Medicare and Medi-Cal cost reporting requirements.
2. Each facility shall retain its supporting financial and statistical records for a period of not less than three years following the date of submission of its cost report and shall make such records available upon request to authorized state or federal representatives.
3. All cost reports received by the State shall be maintained for a period of not less than five years following the date of submission of reports, in accordance with 42 CFR 433.32.
4. Cost reports for freestanding facilities shall be included in the rate study even though they may contain more or less than 12 months and/or more than one report, as long as the fiscal periods all end within the time frame specified for the universe being studied. Only cost reports accepted by the Office of Statewide Health Planning and Development (OSHDP) shall be included in the rate study.
5. For DP/NFs and subacute providers, only cost reports formally accepted by the Department with 12 or more months of DP/NF or subacute costs shall be used in the rate study to determine the median facility rate. For purposes of the median determination, only DP/NFs with Medi-Cal patient days accounting for 20 percent or more of their total patient days shall be included.
6. The State reserves the right to exclude any cost report or portion thereof that it deems to be inaccurate, incomplete or unrepresentative.
7. Freestanding STP facilities are excluded from the determination of freestanding NF rates due to their different staffing requirements and the complexity of their reporting costs by level of care and services. The cost reports for these facilities often comingle the data related to NF, Short-Doyle and special county programs.
8. NF Level A rates shall be established on the basis of costs reported by facilities that only provided that level of care during the cost report period.

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9. The universe of facilities used to establish the prospective freestanding rates shall be provided by OSHPD on hard copy and tapes. In the case that an error or oversight is discovered or brought to the State's attention, which would create an inequity, the Department would adjust rates in the following year to compensate providers for the error. Such an adjustment would normally be in the form of an add-on. In such a case, a State Plan Amendment would be submitted to identify the add-on and describe the methodology for determining the amount of such add-on.
  10. Where identified, facilities that have switched their level of care (e.g., ICF/DD to NF Level B) will not be used to establish rates if their cost report does not reflect their current status.
  11. Where identified, facilities that have terminated from the program will be excluded from the rate studies.
  12. When ICF/DD-H and N providers erroneously report calendar days instead of patient days on their cost reports, the State will contact the provider for the correct information to be used in the rate study.
- B. The Department shall determine reasonable allowable costs based on Medicare reimbursement principles as specified in 42 Code of Federal Regulations (CFR) Part 413. The exceptions to this provision are:
1. The Deficit Reduction Act of 1984 (DEFRA) requires the Department to recognize depreciation only once for reimbursement purposes when a change of ownership has occurred after July 18, 1984. Since the Department reimburses long term care providers using a prospective rate methodology, the Department shall use the net book value approach in lieu of recapturing depreciation to ensure that depreciation is recognized only once for reimbursement purposes. The net book value approach is defined as follows:

Net book value means that when a change of ownership occurs after July 18, 1984, the asset sold shall have a depreciable basis to the new owner that is the lesser of the: acquisition cost of the new owner; or historical cost of the owner of record as of July 18, 1984, less accumulated depreciation to the date of sale (or in the case of an asset not in existence as of July 18, 1984, the

acquisition cost less accumulated depreciation to the date of sale of the first owner of record after July 18, 1984).

2. For developmentally disabled and psychiatric patients in state owned facilities, appropriate personal clothing in lieu of institutional gowns or pajamas are an allowable cost.

### III. AUDITS

- A. Except for DP/NFs, subacute, pediatric subacute, transitional inpatient care units, NF-As, ICF/DDs and state-operated facilities, a minimum of 15 percent of cost reports will be field audited by the Department each year. Facilities identified for audit shall be selected on a random sample basis, except where the entire universe of a class is selected for audit. Field audits may be restricted to facilities that have a complete year of reporting. The sample size for each shall be sufficiently large to reasonably expect, with 90 percent confidence, that it will produce a sample audit ratio which varies from the estimated class population audit ratio by not more than two percent. Other facilities may be audited as necessary to ensure program integrity. The results of federal audits, where reported to the State, may also be applied in determining the audit adjustment for the ongoing rate study.
- B. The labor data reported by providers shall be audited. In the event that facilities are inconsistently reporting their labor costs in the OSHPD data, the Department will adjust the data utilized to develop the labor index so that the correct amount will be reflected. If the labor data used in developing the labor index is adjusted, the State Plan will be amended to provide the specific methodology for such adjustments.
- C. Reports of audits shall be retained by the State for a period of not less than five years, in accordance with 42 CFR 433.32.
- D. Providers will have the right to appeal findings which result in an adjustment to program reimbursement or reimbursement rates. Specific appeal procedures are contained in Section 14171 of the Welfare and Institutions Code, and Article 1.5 (Provider Audit Appeals) of Title 22, California Code of Regulations. See Appendix 2.
- E. When facilities being audited have more than one cost report with an end date in the

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audit year, the last report will be the one audited, except in those cases where a facility-specific audit adjustment will be applied or actual audited costs are used. In these cases, all cost reports with an end date in the audit year will be audited.

- F. All state-operated facilities will be subject to annual audits.
- G. Cost reports for nursing facilities that are distinct parts of acute care hospitals may be audited annually.
- H. All subacute and pediatric subacute providers will be subject to annual audits.
- I. All transitional inpatient care units may be subject to annual audits.

#### IV. PRIMARY REIMBURSEMENT RATE METHODOLOGY

Reimbursement rates shall be reviewed by the Department at least annually. Prospective rates for each class shall be developed on the basis of cost reports submitted by facilities.

The following method shall be used to determine rates of reimbursement for a class of facilities when cost reports are available:

##### A. Audit Adjustment.

1. An audit adjustment shall be determined for each of the following classes:
  - (a) NF level B field audited facilities with 1-59 beds.
  - (b) NF level A field audited facilities with 1-99 beds.
  - (c) NF level B field audited facilities with 60+ beds.
  - (d) NF level A field audited facilities with 100+ beds.
  - (e) ICF/DD field audited facilities with 1-59 beds.
  - (f) ICF/DD field audited facilities with 60+ beds.
  - (g) ICF/DD-H field audited facilities with combined bedsizes.
  - (h) ICF/DD-N field audited facilities with 4-6 beds will utilize a class audit adjustment.
  - (i) ICF/DD-N field audited facilities with 7-15 beds will utilize a facility specific audit adjustment.
2. Except for DP/NFs and subacute providers, where the audit sample exceeds

80 percent of the universe in a class, the audit adjustment will be applied on a facility-specific basis except that the: (1) class average will be used for unaudited facilities and (2) actual audited costs will be used when the fiscal period of the field audit agrees with the fiscal period of the cost report used in the study.

3. For DP/NFs and subacute providers, actual audited costs will be used to determine the facility's prospective rate when the fiscal period of the field audit agrees with the fiscal period of the cost report used in the study. If the field audit of the cost report used in the study is not available by July 1, then an interim rate shall be established by applying the field audit adjustment of the NF level Bs with 60+ beds to the cost report. If a facility has an interim reimbursement rate, when the audit report that matches the cost report is issued or the cost report is deemed true and correct under W&I Code Section 14170(a)(1), the Department shall adjust the facility's projected reimbursement rate retroactively to the beginning of the rate year to reflect these costs, not to exceed the maximum rate as set forth in Section IV.E. Interest shall accrue and be payable on any underpayments or overpayments resulting from such adjustment. Medicare standards and principles of cost reimbursement shall be applied when auditing DP/NFs (see 42 CFR Part 413).
4. As a result of the appeal process mentioned in III.D., some audit findings may be revised. Except for DP/NFs and subacute, the audit adjustment for the current year shall incorporate any revisions resulting from a decision on an audit appeal. The Department shall consider only the findings of audit appeal reports that are issued more than 90 days prior to the beginning of the new rate year.

For DP/NFs or subacute providers, excluding pediatric subacute, that obtain an audit appeal decision that the facility-specific audit adjustment on which a DP/NF or subacute rate is based inaccurately reflects the facility's projected costs, the facility shall be entitled to seek a retroactive adjustment in their prospective reimbursement rate, not to exceed the maximum DP/NF or subacute rate, as set forth under Section IV (E)(1), (10) and (11).

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